

## § 152.26

(2) The services were required to assess whether a condition requiring immediate treatment exists, or to provide such immediate treatment where warranted.

### Subpart E—Oversight

#### § 152.26 Appeals procedures.

(a) *General.* A PCIP shall establish and maintain procedures for individuals to appeal eligibility and coverage determinations.

(b) *Minimum requirements.* The appeals procedure must, at a minimum, provide:

(1) A potential enrollee with the right to a timely redetermination by the PCIP or its designee of a determination regarding PCIP eligibility, including a determination of whether the individual is a citizen or national of the United States, or is lawfully present in the United States.

(2) An enrollee with the right to a timely redetermination by the PCIP or its designee of a determination regarding the coverage of a service or the amount paid by the PCIP for a service.

(3) An enrollee with the right to a timely reconsideration of a redetermination made under paragraph (b)(2) of this section by an entity independent of the PCIP.

#### § 152.27 Fraud, waste, and abuse.

(a) *Procedures.* The PCIP shall develop, implement, and execute operating procedures to prevent, detect, recover (when applicable or allowable), and promptly report to HHS incidences of waste, fraud, and abuse, and to appropriate law enforcement authorities instances of fraud. Such procedures shall include identifying situations in which enrollees or potential enrollees (or their family members) are employed, and may have, or have had, access to other coverage such as group health coverage, but were discouraged from enrolling.

(b) *Cooperation.* The PCIP shall cooperate with Federal law enforcement and oversight authorities in cases involving waste, fraud and abuse, and shall report to appropriate authorities situations in which enrollment in other coverage may have been discouraged.

## 45 CFR Subtitle A (10–1–13 Edition)

#### § 152.28 Preventing insurer dumping.

(a) *General rule.* If it is determined based on the procedures and criteria set forth in paragraph (b) of this section that a health insurance issuer or group health plan has discouraged an individual from remaining enrolled in coverage offered by such issuer or health plan based on the individual's health status, if the individual subsequently enrolls in a PCIP under this part, the issuer or health plan will be responsible for any medical expenses incurred by the PCIP with respect to the individual.

(b) *Procedures and criteria for a determination of dumping.* A PCIP shall establish procedures to identify and report to HHS instances in which health insurance issuers or employer-based group health plans are discouraging high-risk individuals from remaining enrolled in their current coverage in instances in which such individuals subsequently are eligible to enroll in the qualified high risk pool. Such procedures shall include methods to identify the following circumstances, either through the PCIP enrollment application form or other vehicles:

(1) Situations where an enrollee or potential enrollee had prior coverage obtained through a group health plan or issuer, and the individual was provided financial consideration or other rewards for disenrolling from their coverage, or disincentives for remaining enrolled.

(2) Situations where enrollees or potential enrollees had prior coverage obtained directly from an issuer or a group health plan and either of the following occurred:

(i) The premium for the prior coverage was increased to an amount that exceeded the premium required by the PCIP (adjusted based on the age factors applied to the prior coverage), and this increase was not otherwise explained;

(ii) The health plan, issuer or employer otherwise provided money or other financial consideration to disenroll from coverage, or disincentive to remain enrolled in such coverage. Such considerations include payment of the PCIP premium for an enrollee or potential enrollee.